

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.641 of 2006

Shashikant Jaywant Hate.....Petitioner

Versus

1.State of Maharashtra
through Ministry of Revenue
and Forest & Ors.

)
)
)..Respondents

Mr. K.V.Tembe with Ms. Madhavi Gaikwad, for the
Petitioners.
Mr. K.R. Belosey, AGP for Respondent Nos. 1 and 2.
Mrs. P.A. Purandhare for Respondent Nos. 3 and 4.

**CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATE : 5TH OCTOBER 2006**

P.C.

. The issue of law which arises in this petition
was in issue in Writ Petition No.3119 of 2003. For the
similar or same reasons given in the judgment in Writ
Petition No.3119 of 2003 this petition is also disposed
of by issuing the following directions:-

(i) The Letter/Circular dated 31st October, 2001 to
the extent that it directs the occupants of land taken
from the Government to produce a N.O.C. from the
Collector is without the authority of law.

(ii) However, considering the object behind issuing
the Letter/Circular of 31st October, 2001 we direct the
respondent No.2 on an application being received in
respect of the lands which are received from the
Government under the provisions of the Land Revenue Code
or other enactments to intimate the details of the same
to Respondent No.1 within four weeks of receipt of such
Application. On receipt of such application it will be
open to respondent No.1 to take such steps in law which

they are entitled to.

(iii) The order dated 15th March, 1999 issued under Section 154 of M.R.T.P. Act is illegal, null and void order.

(iv) The respondent No.1 before taking any steps shall issue notice to the occupants and/or a transferee from the occupant and after giving an opportunity, to pass appropriate orders which they are entitled to under the law in force and by following due procedure.

(v) Considering the controversy we need not decide the issue as to the type of the land and other issues raised and all these issues are left open for consideration by the appropriate Authority of the respondent No.1 who is vested with such power.

(vi) The amount of Rs.50,000/- which has been deposited to continue to remain deposited till such time as the Collector/Respondent No.1 takes action according to law. If after hearing the petitioner/occupant the Authority comes to the conclusion that the amount is not due and payable the same shall be refunded to the petitioner/occupant.

(vii) The respondent No.1 in the case of those petitions, which have been disposed off by this Court, to commence the process within six weeks from today and complete the process not later than nine months from today.

(viii) In so far as the consequential orders passed by the respondent No.2 based on the Letter/Circular dated 31st October, 2001 the same would be of no effect and are consequently quashed and set aside. We, however, make it clear that it will still be open to respondent No.2

Planning Authority to exercise whatever powers it has under the provisions of the Maharashtra Regional Town Planning Act, 1966 and the D.C.Regulations and this order will not stand in their way.

(ix) In so far as the undertakings are concerned, the petitioner is released from the undertakings. However, it is made clear that the petitioners will be bound to make any good the amount as set out in the undertaking on the Government fixing a policy, if the petitioner is held to be liable, but subject to the rights of the petitioner to challenge the validity of the order passed on that policy.

(x) In the event the petitioner does not have the original of the title document on an application being made by the petitioners/occupants to respondent No.1 the said document be made available so as to enable the petitioner/occupant to make good their case before the respondent No.1 or its authority before whom the proceedings will commence.

. Rule made absolute accordingly. No order as to costs. Liberty to the parties to apply.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA, J.)